

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

J & J SPORTS PRODUCTIONS, INC.,)

Plaintiff,)

v.)

Case No. CIV-13-1029-M

JUANITA CHRONISTER, individually)

and d/b/a LA REINA SUR,)

Defendant.)

ORDER

On October 3, 2013, defendant Juanita Chronister, individually and d/b/a La Reina Sur, was served. *See* Return of Service [docket no. 7]. The time for defendant to answer or otherwise plead or move expired on October 24, 2013. *See* Fed. R. Civ. P. 12(a)(1)(A). Defendant Juanita Chronister, individually and d/b/a La Reina Sur, has filed no entry of appearance, answer, request for extension of time, or any other motion. On December 23, 2013, plaintiff filed a Motion for Default Judgment and Brief in Support for Motion for Default Judgment [docket nos. 11 and 12].

Based upon the above, the Court finds defendant Juanita Chronister, individually and d/b/a La Reina Sur, is in default. If a court determines that a defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2688, at 58-59 (3d ed. 1998). The Court, taking the factual allegations of plaintiff's Complaint as true, finds that plaintiff is entitled to judgment on its claims.


In assessing the appropriate amount of damages, the Court has carefully reviewed the uncontested allegations and the circumstances surrounding defendant's actions. The Court

concludes that an appropriate statutory award is \$10,000. In determining the appropriate enhanced damages award, the Court finds that the uncontested evidence establishes that defendant's actions were willful. The Court further agrees with plaintiff that an enhanced damage award should also take into account the valid interest of the Court in deterring similar future actions by this defendant and others. In this connection, the Court notes that the capacity of La Reina Sur is approximately 55 persons and during the time plaintiff's investigator was in La Reina Sur, he counted 7 patrons present, the investigator did not pay a cover charge to enter the establishment, the program was being broadcast on one television, and the lack of evidence regarding defendant's history of similar violations, if any. Based on these considerations, the Court concludes that an additional \$10,000 award is appropriate as an enhanced penalty.

Finally, it appears that an award of costs and attorneys fees pursuant to 47 U.S.C. § 605(e)(3)(B)(iii) is also appropriate. Plaintiff is granted leave to file a properly supported motion for attorneys fees and costs in accordance with the Court's local rules.

Accordingly, the Court GRANTS plaintiff's Motion for Default Judgment [docket no. 12], ORDERS that default judgment be entered against defendant Juanita Chronister, individually and d/b/a La Reina Sur, forthwith, and ASSESS damages in the amount of \$20,000. Interest shall accrue at the rate permitted by 28 U.S.C. § 1961. A separate judgment will issue.

IT IS SO ORDERED this 28th day of January, 2014.


VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE